

## **ARTICLE 10. HIV-RELATED TESTING AND NOTIFICATION**

### **R9-6-1001. Definitions**

In this Article, unless otherwise specified:

- ~~1.~~ “~~Health professional~~” has the same meaning as “health care provider” in A.R.S. § 36-661.
- ~~2.~~ “Hospital” means a health care institution licensed by the Department as a general hospital, a rural general hospital, or a special hospital under 9 A.A.C. 10.
1. “Governing board” means a group of individuals, elected as specified in A.R.S. Title 15, Chapter 4, Article 2, to carry out the duties and functions specified in A.R.S. Title 15, Chapter 3, Article 3.
- ~~3.2.~~ No change (“*Informed consent*” means permission to conduct an HIV-related test obtained from a subject who has capacity to consent or an individual authorized by law to consent for a subject without capacity to consent after an explanation that complies with A.R.S. § 36-663(B).
- ~~4.3.~~ “Physician” means an individual licensed as a doctor of:
  - a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
  - b. Osteopathic medicine under A.R.S. Title 32, Chapter 17; or
  - c. Homeopathic medicine under A.R.S. Title 32, Chapter 29.
4. “School district” means the same as in A.R.S. § 15-101.
5. “Superintendent of a school district” means an individual appointed by the governing board of a school district to oversee the operation of schools within the school district.
6. “Works” means materials, such as cotton balls or a spoon, required when preparing or using a drug that requires injection.

### **R9-6-1002. Local Health Agency Requirements**

For each HIV-infected individual or suspect case, a local health agency shall comply with the requirements in R9-6-341.

### **R9-6-1002.R9-6-1003. Consent for HIV-related Testing**

- ~~A.~~ An individual ordering an HIV-related test shall obtain consent for the test, unless the test has been ordered by a court under A.R.S. §§ 8-341, or 13-1210, 13-1415 or falls under A.R.S. § 36-663(D).
- ~~1.~~ If the test is ordered in a hospital, the individual ordering the test shall obtain written informed consent as specified in subsection (B).
  - ~~2.~~ If the test is ordered outside a hospital by a physician, a registered nurse practitioner, or a physician’s assistant, the individual ordering the test shall obtain either written informed consent as specified in subsection (B) or oral informed consent.
  - ~~3.~~ If the test is ordered outside a hospital by a health professional licensed under A.R.S. Title 32, but not listed in subsection (A)(2), who is authorized to provide HIV-related tests within the health

Draft 10/29/07– New text is underlined, deleted text has a strikeout, and unchanged text has neither. Italicized text is included for the convenience of the reader, but will not be in the Proposed or Final rulemaking. Text that has been changed since the last draft is in BOLD and is highlighted.

~~professional's scope of practice, the individual ordering the test shall obtain written informed consent as specified in subsection (B).~~

4. ~~If the HIV-related test is performed anonymously, the individual ordering the test shall obtain oral consent and shall not make a record containing personal identifying information about the subject.~~

**B.** ~~An individual obtaining written, informed consent for an HIV-related test shall use the form shown in Exhibit A (English) or Exhibit B (Spanish).~~

1. ~~Except as described in subsection (A)(4), an individual using the consent form may add the following information in the Identifying Information section of the form:~~
  - a. ~~The subject's name and identifying number,~~
  - b. ~~Facility identifying information,~~
  - c. ~~Facility processing codes,~~
  - d. ~~The subject's race and ethnicity,~~
  - e. ~~The subject's address, and~~
  - f. ~~The subject's date of birth and sex.~~
2. ~~This form may be reproduced to accommodate a multiple copy or carbonless form.~~

**A.** An individual ordering an HIV-related test shall:

1. Obtain written informed consent for the HIV-related test as specified in subsection (B):
  - a. If the HIV-related test is ordered in a hospital, or
  - b. If the HIV-related test is ordered by a health care provider not listed in subsection (A)(2)(b);
2. Obtain either written informed consent as specified in subsection (B) or oral informed consent if the HIV-related test is:
  - a. Not ordered in a hospital; and
  - b. Ordered by a physician, a registered nurse practitioner, or a physician assistant;
3. Obtain oral consent and make a record that contains only the information about the subject authorized in A.R.S. § 36-663(A) if the HIV-related test is performed through anonymous HIV-related testing as specified in R9-6-1004; and
4. Not request consent from the subject if the HIV-related test:
  - a. Was ordered by a court under A.R.S. §§ 8-341, 13-1210, 13-1415, or 32-3207; or
  - b. Falls under A.R.S. § 36-663(D).

**B.** When an individual obtains written informed consent from a subject for an HIV-related test, the individual shall:

Draft 10/29/07– New text is underlined, deleted text has a strikeout, and unchanged text has neither. Italicized text is included for the convenience of the reader, but will not be in the Proposed or Final rulemaking. Text that has been changed since the last draft is in BOLD and is highlighted.

1. If the HIV-related test is done as part of an application for insurance, use the form prescribed by A.R.S. § 20-448.01; and
2. If the HIV-related test is done for any other purpose:
  - a. Use the form shown in Exhibit A or an equivalent of the form translated into a language understood by the subject,
  - b. Complete the information on the form specified in subsection (B)(2)(a), and
  - c. Obtain the dated signature of the subject.

Draft 10/29/07– New text is underlined, deleted text has a ~~strikeout~~, and unchanged text has neither. Italicized text is included for the convenience of the reader, but will not be in the Proposed or Final rulemaking. Text that has been changed since the last draft is in **BOLD** and is highlighted.

#### **EXHIBIT A. ~~CONSENT FOR HIV-RELATED TESTING~~**

##### **Consent for HIV-related Testing**

###### **Information on HIV**

The Human Immunodeficiency Virus (HIV) is the virus that causes Acquired Immunodeficiency Syndrome (AIDS). HIV is spread through the exchange of blood (including transfusion) or sexual fluids (semen and vaginal secretions) and sometimes through breast milk. HIV can be transmitted from mother to baby during pregnancy or childbirth.

###### **HIV-related Testing**

There are several laboratory tests for HIV. The most common is the antibody test, which is a blood test that detects antibodies produced by the body in response to infection with HIV.

A positive antibody test consists of a repeatedly reactive (the same specimen testing positive twice) enzyme immunoassay (EIA) and a reactive Western blot or other confirmatory test. A positive antibody test means that an individual is infected with HIV; however, this does not always mean that the individual has AIDS. Research indicates that early and regular medical care is important to the health of an individual with HIV. Certain treatments are now available to treat HIV-associated illnesses.

A negative antibody test indicates that no detectable antibodies are present in the blood. An individual may not have antibodies because the individual is not infected with HIV or because detectable antibodies have not yet been made in response to infection. The production of these antibodies could take 3 months or longer. Therefore, in certain cases, an individual may be infected with HIV and yet test negative. Individuals with a history of HIV risk behaviors within the past 3 to 6 months should consider retesting.

Like any test, HIV-related testing is not accurate 100% of the time and may occasionally produce both false positive and false negative results.

###### **Means to Reduce Risk for Contracting or Spreading HIV**

Risk of contracting or spreading HIV can be reduced by avoiding or decreasing contact with blood and sexual fluids (semen and vaginal secretions). Some methods of decreasing the risk of contracting or spreading HIV include abstaining from sexual intercourse, using methods that limit exposure to body fluids during intercourse (such as the proper use of condoms), not engaging in injecting drug use, not sharing needles, or using bleach and water to clean needles and syringes. The use of certain medications by an HIV-infected woman during pregnancy may reduce the chances of HIV transmission from mother to child.

###### **Disclosure of Test Results**

I understand that if the HIV test results are positive, the physician or facility representative conducting the test will make reasonable efforts to notify me of the results at the address or phone number I have provided, and will provide or arrange for counseling as required by Arizona state laws and regulations regarding (1) HIV, (2) AIDS, and (3) appropriate precautions to reduce the likelihood of transmission of the virus to others. I agree to assume all risks that may result if I cannot be contacted.

I understand that Arizona law and regulations require that if my test results are positive, they will be submitted to local and state health departments. Information received by these health departments may only be released: (1) if there is written authorization from the individual being tested, (2) for statistical purposes without individual identifying information, or (3) as otherwise required or allowed by law.

Identifying Information

I also understand that the physician or facility may report to the Arizona Department of Health Services identifiable 3rd parties such as a spouse or sex partner who may be at risk of contracting the virus if I do not release this information. Finally, I understand that the test results may be placed in a medical record kept by the facility or person administering the test and that persons involved in providing or paying for my health care may have access to that information.

###### **Additional Sources of Information on HIV**

Additional information regarding testing for HIV is available through your county health department and, in the Phoenix metropolitan area, (602) 234-2752; the Tucson metropolitan area, (520) 791-7676, or outside the Phoenix area, 1-800-334-1540. National Hotline: English, 1-800-342-2437; Spanish, 1-800-344-7432; TTY/TDD, 1-800-243-7012.

###### **Consent**

I have been given the opportunity to ask questions regarding this information and have had my questions answered to my satisfaction. I understand that this test can be performed anonymously at a public health agency. I also understand that I may withdraw my consent at any time before a blood sample is taken in order to conduct a test, and that I may be asked to put my decision to withdraw my consent in writing if I have signed this consent. I also understand that this is a voluntary test and that I have a right to refuse to be tested. My signature below indicates that I have received and understand the information I have been given and voluntarily consent to and request HIV-related testing.

\_\_\_\_\_  
Patient/Subject Name (Printed)

\_\_\_\_\_  
Patient/Subject or Legal Representative Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

###### **NOTICE**

The Arizona Department of Health Services does not discriminate on the basis of disability in the administration of its programs and services as prescribed by Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. If you need this publication in an alternative format, please contact the ADHS Office of HIV/STD Services at (602) 230-5819 or 1-800-367-8939 (state TDD/TTY Relay).

Draft 10/29/07– New text is underlined, deleted text has a strikeout, and unchanged text has neither. Italicized text is included for the convenience of the reader, but will not be in the Proposed or Final rulemaking. Text that has been changed since the last draft is in **BOLD** and is highlighted.

## **EXHIBIT B. CONSENTIMIENTO PARA LA PRUEBA DE VIH**

### **Consentimiento Para la Prueba de VIH**

#### **Información sobre el VIH**

El virus de Inmunodeficiencia Humana (VIH) es el virus que causa el Síndrome de Inmunodeficiencia Adquirida (SIDA). VIH se transmite a través del contacto con sangre (incluyendo la transfusión) o fluidos sexuales (semen y secreciones vaginales) y en algunas ocasiones a través de la leche materna. VIH puede ser transmitido de la madre al bebé durante el embarazo o al momento del parto.

#### **La prueba del VIH**

Existen pruebas de laboratorio para saber si una persona está infectada con el VIH. La más común es la prueba de anticuerpos. Esta es un examen de sangre que detecta los anticuerpos producidos por el cuerpo al reaccionar contra la infección por VIH.

Un examen de anticuerpos positivo consiste de una prueba por inmunoanálisis enzimático (EIA) (realizada dos veces en cada espécimen) y una prueba reactiva por Western Blot u otras pruebas confirmatorias. El resultado positivo a la prueba de anticuerpos quiere decir que el individuo está infectado con el VIH; sin embargo, esto no siempre quiere decir que el individuo tenga el SIDA. Investigaciones médicas señalan que atención médica temprana y continua es importante para la salud de una persona con el VIH. Hoy en día se dispone de tratamientos para retardar las enfermedades asociadas con el SIDA. Un examen de anticuerpos negativo indica que no se han detectado anticuerpos en la sangre. Un individuo puede no tener anticuerpos por que el individuo no está infectado(a) o porque aún no se han producido suficientes anticuerpos contra la infección. Estos anticuerpos pueden tardar tres meses o más para ser producidos. De tal manera, en ciertos casos, un individuo puede estar infectado con el VIH y su prueba resultar negativa. Los individuos que han tenido comportamiento de alto riesgo en los últimos tres a seis meses deberían pensar en repetir la prueba. Como cualquier prueba, la prueba del VIH no es 100% segura y en alguna ocasión puede producir resultados falsos ya sea positivos o negativos.

#### **Maneras de reducir el riesgo de infección o transmisión del VIH**

El riesgo de contraer o transmitir el VIH se puede reducir al evitar contacto con la sangre y fluidos sexuales (semen y secreciones vaginales). Algunos métodos para disminuir el riesgo de infección o transmisión del VIH incluyen: abstinencia sexual, usar métodos que limitan el contacto de fluidos corporales durante la relaciones sexuales (como el uso correcto de condones), no usar drogas intravenosas, no compartir agujas, y usar "cloro" (blanqueador) y agua para limpiar las jeringas y las agujas. En mujeres infectadas con VIH, el uso de ciertos medicamentos durante el embarazo, puede reducir el riesgo del transmisión del VIH de madre a hijo.

#### **El resultado de la prueba**

Entiendo que si el resultado de la prueba del VIH es positivo, el doctor o el representante de la institución que hizo el examen va a hacer esfuerzos suficientes para notificarme del resultado a la dirección (domicilio) o al teléfono que he proporcionado y que me dará información, cumpliendo con los requisitos de la ley estatal de Arizona, sobre (1) el VIH, (2) el SIDA, y (3) las precauciones necesarias para reducir la posibilidad de transmisión del virus a otras personas. Estoy de acuerdo en asumir todos los riesgos que resultarán de no poder contactarme.

Entiendo que la ley estatal de Arizona exige que si el resultado de mi prueba es positivo, éste se reportará a los departamentos de salud local y estatal. La información que estos departamentos reciben solamente puede ser revelada a otras personas: (1) si hay una autorización por escrito de la persona que se ha hecho la prueba, (2) por razones de estudios estadísticos sin revelar la identidad del individuo, o (3) por cualquier otra razón que la ley permita.

#### Identifying Information/Datos de Identidad

También entiendo que el doctor o la institución puede reportar al Departamento de Salud del Estado de Arizona, la identidad de terceras personas como: los esposos(as) o los compañeros(as) sexuales que pueden estar en riesgo de contraer con el virus si decido no darles esta información. Por último, entiendo que el resultado de la prueba puede guardarse con el resto de mi información médica en la agencia o por la persona que hizo el examen; y que las personas encargadas de proveer o pagar por el cuidado de mi salud pueden tener acceso a esta información.

#### **Otras fuentes de información sobre el VIH**

Información adicional sobre el examen del VIH está disponible a través del departamento de salud de su condado. En el área metropolitana de Phoenix llame al (602) 234-2752, en el área metropolitana de Tucson (520) 791-7676, y en el resto de Arizona 1-800-334-1540. Líneas telefónicas a nivel nacional son: en inglés 1-800-342-2437; en español 1-800-344-7432. (TTY/TDD) Transmisión de voz 1-800-243-7012.

#### **Consentimiento**

Se me ha dado la oportunidad de hacer preguntas respecto a esta información y me han sido contestadas satisfactoriamente. Entiendo que este examen se puede hacer de forma anónima en una agencia de salud pública. También entiendo que puedo retirar mi consentimiento en cualquier momento antes de que me saquen la sangre para hacer la prueba y que me pueden pedir que ponga por escrito mi decisión de retirar mi consentimiento si ya había firmado este permiso. Entiendo también que este examen es voluntario y que tengo el derecho a negarme a que se me haga la prueba.

Mi firma indica que he recibido y he entendido la información que se me ha proporcionado y que voluntariamente autorizo y solicito la prueba del VIH.

Nombre del paciente (letra imprenta)

Firma del paciente o de su representante legal

Fecha

Testigo

#### **AVISO**

El Departamento de Salud del Estado de Arizona no discrimina basado en los impedimentos de las personas en la administración de los programas y servicios ordenado por la ley de 1990: Americanos con Impedimentos, Título II y la Sección 504 de la ley de Rehabilitación de 1973. Si usted necesita esta publicación por otros medios de comunicación, favor ponerse en contacto con el Departamento de Salud del Estado de Arizona, Oficina de Servicios de VIH/ETS al 1-800-842-4681 (transmisión de voz estatal) or 1-800-367-8939 (transmisión TDD/TTY estatal).

Draft 10/29/07– New text is underlined, deleted text has a ~~strikeout~~, and unchanged text has neither. Italicized text is included for the convenience of the reader, but will not be in the Proposed or Final rulemaking. Text that has been changed since the last draft is in **BOLD** and is highlighted.

**EXHIBIT A. HIV-RELATED TEST INFORMATION AND CONSENT FORM**

**Information on HIV**

The Human Immunodeficiency Virus (HIV) is the virus that causes Acquired Immunodeficiency Syndrome (AIDS). HIV is spread through the exchange of blood (including transfusion) or sexual fluids (semen and vaginal secretions) and through breast milk. HIV can be transmitted from mother to baby during pregnancy or childbirth. The immune system is the body's defense system, which fights off infection and other diseases. HIV attacks and destroys the disease-fighting cells of the immune system, leaving the body with a weakened defense against infections and cancer. If you have HIV in your body and do not receive treatment, HIV will damage your immune system and HIV infection can progress to AIDS.

**HIV-Related Testing**

The purpose of the test you are requesting is to see if you are infected with HIV. The test may look for the HIV virus, parts of the HIV virus, or your body's reaction to the HIV virus.  
The test being offered to you is a \_\_\_\_\_.

*(enter information about the type of HIV-test being offered to the subject)*

**Meaning of a Positive Result**

If you are given a screening test for HIV, you may receive a preliminary positive result, and will need an additional test to confirm whether you are infected with HIV. A positive test result on the confirmatory test means that you are infected with HIV, but not that you have AIDS.

**Meaning of a Negative Result**

A negative test result indicates that HIV, parts of the HIV virus, or your body's reaction to the HIV virus were not found in your body at the time of the test. In some cases, you may be infected with HIV and yet still test negative. You can have a negative test result either because you are not infected with HIV or because not enough time has passed since you were infected for the signs of an HIV infection to be found in your body. If you have had unprotected sex, used drugs that require an injection, or shared needles, syringes, or works within the past 1 to 3 months and your test result is negative, you should consider getting retested at a later time.

**Test Accuracy**

HIV-related testing occasionally produces both false positive and false negative results.

**Treatment for HIV**

If you test positive for HIV, early and regular medical care is important to your health. Medications are now available to help keep you healthy. Treatment can help you at all stages of HIV disease, but cannot cure your HIV infection. HIV treatment is most effective when tailored to your individual needs.

**Ways to Reduce Risk for Contracting or Spreading HIV**

Risk of infection or transmission of HIV can be reduced by avoiding or decreasing contact with blood and sexual fluids (semen and vaginal secretions). Some methods to decrease your risk of infection or transmission of HIV include not having sex, limiting contact with body fluids during sex (such as by properly using condoms), not using drugs that require an injection, and not sharing needles, syringes, or works. If you are pregnant, certain medicines can reduce your chances of transmitting HIV to your unborn child.

**Subject Information**

Subject ID Number:

Address:

Phone:

Race/ethnicity:

Date of birth:

Gender:

**Notification and Disclosure of a Test Result**

If you test positive for HIV, we will try to notify you of the result using the information you provide on this form. State law requires that a positive test result be reported to a public health agency and allows the Arizona Department of Health Services to contact and notify someone who is at risk of contracting HIV from you. Your test result may also be released to persons involved in providing or paying for your health care.

Otherwise, unless you consent to its release, information on your test result may only be released as permitted under state or federal law.

**Additional Sources of Information on HIV**

Additional information regarding HIV-related testing is available through the local health department and the National AIDS Hotline.

English: 1-800-342-AIDS (2437)

Spanish: 1-800-344-7432

TTY/TDD: 1-800-243-7012

**Consent**

My checkmarks and signature below indicate that:

- ☐ I have been given the opportunity to ask questions regarding the information on this form, have had my questions answered to my satisfaction, and understand this information;
- ☐ I understand that HIV-related testing can be performed anonymously through a public health agency;
- ☐ I understand that I may withdraw my consent in writing at any time before a specimen is taken to conduct a test;
- ☐ I understand that this is a voluntary test and that I have a right to refuse to be tested;
- ☐ I understand that if I do not provide correct and current information on this form about how I can be contacted, I may not receive my test results because someone will be unable to notify me; and
- ☐ I voluntarily consent to and request HIV-related testing.

\_\_\_\_\_  
Subject Name (Printed)

\_\_\_\_\_  
Subject or Legal Representative Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Facility Name

Draft 10/29/07– New text is underlined, deleted text has a strikeout, and unchanged text has neither. Italicized text is included for the convenience of the reader, but will not be in the Proposed or Final rulemaking. Text that has been changed since the last draft is in BOLD and is highlighted.

**R9-6-1003, R9-6-1004. Court-ordered HIV-related Testing**

- A.** ~~An individual who tests a specimen of blood or another body fluid to detect HIV antibody under court order issued under A.R.S. §§ 8-341 or 13-1415 shall use a test licensed by the United States Food and Drug Administration for use in HIV screening. If a specimen is reactive two or more times according to the test manufacturer's recommendations, the individual shall retest the specimen using a licensed supplemental or confirmatory assay or as recommended by the original test manufacturer's package insert.~~
- A.** **A health care provider who receives the results of a test, ordered by the health care provider to detect HIV infection and performed as a result of a court order issued under A.R.S. § 13-1210, shall comply with the requirements in A.A.C. Title 9, Chapter 6, Article 8.**
- B.** **A health care provider who receives the results of a test, ordered by the health care provider to detect HIV infection and performed as a result of a court order issued under A.R.S. § 32-3207, shall comply with the requirements in A.A.C. Title 9, Chapter 6, Article 9.**
- C.** When a court orders a test under A.R.S. §§ 8-341 or 13-1415 to detect HIV infection, the prosecuting attorney who petitioned the court for the order shall provide the name and address of the victim to the Department.
- D.** A person who tests a specimen of blood or another body fluid from a subject to detect HIV infection as authorized by a court order issued under A.R.S. §§ 8-341 or 13-1415 shall:
1. Use a screening test; and
  2. If the test results from a screening test on a specimen indicate a positive result, retest the specimen using a confirmatory test.
- B-E.** ~~The individual~~ A person who performs a test described in subsection (D) shall report each test result the test results for each subject **directly to the submitting entity and Department** within five working days after obtaining the test results.
- F.** A submitting entity that receives the results of a test to detect HIV infection that was performed for a subject as a result of a court order issued under A.R.S. §§ 8-341 or 13-1415 shall:
1. Comply with the requirements in:
    - a. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
    - b. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained; or
  2. Provide to the Department or the local health agency in whose designated service area, as defined in R9-18-101, the subject is living:
    - a. The name and address of the subject,

Draft 10/29/07– New text is underlined, deleted text has a strikeout, and unchanged text has neither. Italicized text is included for the convenience of the reader, but will not be in the Proposed or Final rulemaking. Text that has been changed since the last draft is in BOLD and is highlighted.

- b. A written copy of the results of the test to detect HIV infection, and
  - c. Notice that the submitting entity did not provide notification as specified in subsection (F)(1).
- G.** If the Department or a local health agency is notified by a submitting entity as specified in subsection (F)(2), the Department or local health agency shall comply with the requirements in:
  - 1. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
  - 2. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained.
- H.** When the Department receives a written copy of the results of a test to detect HIV infection that was performed for a subject as a result of a court order issued under A.R.S. §§ 8-341 or 13-1415, the Department shall:
  - 1. Provide to the victim:
    - a. A description of the results of the test to detect HIV-infection;
    - b. The information specified in R9-6-802(D); and
    - c. If requested by the victim, a written copy of the test results; or
  - 2. Provide to the local health agency in whose designated service area, as defined in R9-18-101, the victim is living:
    - a. The name and address of the victim,
    - b. A written copy of the results of the test to detect HIV infection, and
    - c. Notice that the Department did not provide notification as specified in subsection (H)(1).
- I.** If a local health agency is notified by the Department as specified in subsection (H)(2), the local health agency shall:
  - 1. Provide to the victim:
    - a. A description of the results of the test to detect HIV infection;
    - b. The information specified in R9-6-802(D); and
    - c. If requested by the victim, a written copy of the test results; or
  - 2. If the local health department is unable to locate the victim, notify the Department that the local health department did not inform the victim of the results of the test to detect HIV infection.

**R9-6-1005. Anonymous HIV Testing**

- A.** A local health agency and the Department shall offer anonymous HIV testing to individuals.
- B.** If an individual requests anonymous HIV testing, the Department or a local health agency shall:



Draft 10/29/07– New text is underlined, deleted text has a strikeout, and unchanged text has neither. Italicized text is included for the convenience of the reader, but will not be in the Proposed or Final rulemaking. Text that has been changed since the last draft is in BOLD and is highlighted.

1. **Provide to the individual requesting anonymous HIV testing health education about HIV, the meaning of HIV test results, and the risk factors for becoming infected with HIV or transmitting HIV to other individuals;**
2. Record in a format specified by the Department information about the individual's risk factors for becoming infected with or transmitting HIV and submit the information to the Department;
3. Collect a blood specimen from the individual requesting anonymous HIV testing;
4. Assign to the blood specimen an identification number;
5. Record the following information on a form provided by the Department:
  - a. The individual's date of birth,
  - b. The individual's race and ethnicity,
  - c. The individual's gender,
  - d. The date the blood specimen was collected, and
  - g. The name, address, and telephone number of the person submitting the blood specimen;
6. Give the individual requesting anonymous HIV testing the identification number assigned to the blood specimen and information about how to obtain the results of the test; and
7. Send the blood specimen and the form specified in subsection (B)(5) to the Arizona State Laboratory for testing.

**R9-6-1006.**                    **Notification**

- A.**    The Department or the Department's designee shall confidentially notify an individual reported to be at risk for HIV infection, as required under A.R.S. § 36-664(J), if all of the following conditions are met:
1. The Department receives the report of risk for HIV infection in a document that includes the following:
    - a. The name and address of the individual reported to be at risk for HIV infection or enough other identifying information about the individual to enable the individual to be recognized and located,
    - b. The name and address of the HIV-infected individual placing the individual at risk for HIV infection,
    - c. The name and address of the individual making the report, and
    - d. The type of exposure placing the individual at risk for HIV infection;
  2. The individual making the report is in possession of confidential HIV-related information; and

Draft 10/29/07– New text is underlined, deleted text has a strikeout, and unchanged text has neither. Italicized text is included for the convenience of the reader, but will not be in the Proposed or Final rulemaking. Text that has been changed since the last draft is in BOLD and is highlighted.

3. The Department determines that the information provided in the report is accurate and contains sufficient detail to:
  - a. Indicate that the exposure described as required in subsection (A)(1)(d) constitutes a significant exposure for the individual reported to be at risk for HIV infection, and
  - b. Enable the individual reported to be at risk for HIV infection to be recognized and located.

**B.** As authorized under A.R.S. § 36-136(L), the Department shall notify the superintendent of a school district in a confidential document that a pupil of the school district tested positive for HIV if the Department determines that:

1. The pupil places others in the school setting at risk for HIV infection; and
2. The school district has an HIV policy that includes the following provisions:
  - a. That a school shall not exclude a pupil who tested positive for HIV from attending school or school functions or from participating in school activities solely due to HIV infection;
  - b. That school district personnel who are informed that a pupil tested positive for HIV shall keep the information confidential; and
  - c. That the school district shall provide HIV-education programs to pupils, parents or guardians of pupils, and school district personnel through age-appropriate curricula, workshops, or in-service training sessions.